

NOTICE IS GIVEN, and it is ordered, that the claim below shall be disallowed or allowed as recommended below and, unless any chapter 13 confirmation order entered hereafter provides otherwise, the amount of any arrearage will be fixed as recommended below, without further order unless within 44 days of the date in the 'FILED' stamp the creditor either: (1) sends, with a copy of this objection, the proper documentation to the trustee/debtor-in-possession and any other objecting party at the service address(es) below, and receives a written withdrawal of objection; or (2) files a written request for a hearing, setting forth the specific grounds for such request, with the Clerk of Court (i.e., if the 5-digit portion of the Case No. begins with '3' or '4', at 1001 SW 5th Ave. #700, Portland OR 97204; or, if it begins with a '6' or '7', at 405 E 8th Ave #2600, Eugene OR 97401), and (b) serves a copy thereof on the trustee/debtor-in-possession and any other objecting party at the service address(es) below. [NOTE: This Order does not indicate how the Court will rule if a timely request for hearing is filed.]

The filer of the objection is hereby directed to the related notice regarding service of this objection.

  
RANDALL L. DUNN  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF OREGON

In re )  
 ) Case No. \_\_\_\_\_  
 )  
 )  
 )  
 ) **OBJECTION TO CLAIM, AND**  
 ) **ORDER AND NOTICE THEREON**  
Debtor(s) )

1. The undersigned objects to Claim No. \_\_\_\_\_, filed in the amount of \$ \_\_\_\_\_, by:  
(Enter the current claimant's name, proof of claim notice address, and FRBP 7004 service address(es) of claimant)

2. The undersigned objects to such claim on the ground(s) it (check all applicable sections):

- ☐ Duplicates Claim No. \_\_\_\_\_ filed by \_\_\_\_\_.
- ☐ Fails to assert grounds for priority.
- ☐ Was not filed on behalf of a real party in interest (e.g., does not include a copy of the assignment(s) upon which it is based).
- ☐ Appears to include interest or charges accrued after the filing.

- ☐ Appears that value of collateral exceeds debt.
- ☐ Arrearage asserted is incorrect.
- ☐ The creditor filed a secured claim, but neither: (a) specified that any portion of the claim should be treated as unsecured nor (b) requested a hearing to determine the value of their collateral, and therefore the trustee objects to any portion of the claim being treated as unsecured.
- ☐ The creditor filed a claim for taxes assessed against real or personal property of the debtor(s). The undersigned represents that the interest of the estate in the real or personal property against which the above taxes were assessed has no value in that the estate has no equity or interest in such property, and so under the provisions of 11 U.S.C. §502(b) no order can be made for payment of such taxes.
- ☐ Proof of claim does not include documentation required by FRBP 3001(c) and (d) (e.g., a copy of the note, or documents establishing secured status).
- ☐ Other:

3. The undersigned recommends said claim be (check applicable box(es)):

- ☐ Disallowed in full.
- ☐ (If objection is based on failure to provide documentation) Disallowed for distribution: If an amended claim including the required documentation is not filed within 30 days of the filed date noted above, no distribution on account of the claim will be made by the trustee or debtor.
- ☐ Allowed as a SECURED claim for \$\_\_\_\_\_; a PRIORITY UNSECURED claim for \$\_\_\_\_\_; AND a NONPRIORITY UNSECURED claim for \$\_\_\_\_\_. [You must fill in each blank even if it is \$0.]
- ☐ (If amount of arrearage is contested) The amount of the arrearage is \$\_\_\_\_\_.

4. **THE UNDERSIGNED CERTIFIES THAT** a copy of any Withdrawal of this Objection will be served on all parties that were served a copy of this Objection (i.e., the U.S. Trustee, any trustee, debtor(s), the creditor at the address shown above, and their respective attorneys; and, if the creditor is a federal agency, on the U.S. Attorney for the District of Oregon and the U.S. Attorney General).

DATE: \_\_\_\_\_

Objecting Party Signature AND Relation to Case

Objecting Party Name AND Service Address (Type or Print)

Objecting Party Phone Number

(If Debtor is Objecting Party) Debtor's Address AND Taxpayer I.D.#(s) (last 4 digits)

**Fill in this information to identify the case:**

Debtor 1 Dawn Mechele Kennedy

Debtor 2 \_\_\_\_\_  
(Spouse, if filing)

United States Bankruptcy Court for the: \_\_\_\_\_ District of OREGON  
(State)

Case number 15-35469-rld13

**Official Form 410****Proof of Claim****12/15**

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

**Part 1: Identify the Claim**

<b>1. Who is the current creditor?</b>	<u>Bayview Loan Servicing, LLC</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
<b>2. Has this claim been acquired from someone else?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
<b>3. Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>
	<u>M&amp;T Bank</u>	<u>M&amp;T Bank</u>
	Name _____	Name _____
	<u>PO Box 840</u>	<u>PO Box 1288, Attn: Payment Processing</u>
	Number _____ Street _____	Number _____ Street _____
	<u>Buffalo, NY 14240-0840</u>	<u>Buffalo, NY 14240-1288</u>
City _____ State _____ Zip Code _____	City _____ State _____ Zip Code _____	City _____ State _____ Zip Code _____
Contact phone _____	Contact phone _____	Contact phone _____
Contact email _____	Contact email _____	Contact email _____
Uniform claim Identifier for electronic payments in chapter 13 (if you use one): _____		
<b>4. Does this claim amend one already filed?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
<b>5. Do you know if anyone else has filed a proof of claim for this claim?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

**Part 2: Give Information About the Claim as of the Date the Case Was Filed**

<b>6. Do you have any number you use to identify the debtor?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>XXXXXX5765</u>
<b>7. How much is the claim?</b>	<u>\$ 299,652.74</u> Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
<b>8. What is the basis of the claim?</b>	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Money Loaned</u>
<b>9. Is all or part of the claim secured?</b>	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property <b>Nature of property:</b> <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <b>Describe:</b> <u>3119 DIANE DR, LAKE OSWEGO, OR 97035</u> <input type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____  <b>Basis for perfection:</b> <u>Deed of Trust</u>  Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  <b>Value of property:</b> \$ _____ <b>Amount of the claim that is secured:</b> \$ <u>299,652.74</u> <b>Amount of the claim that is unsecured:</b> \$ <u>0.00</u> (The sum of the secured and unsecured amounts should match the amount in line 7.)  <b>Amount necessary to cure any default as of the date of the petition:</b> \$ <u>9,612.71</u>  <b>Annual Interest Rate</b> (when case was filed) <u>2.000</u> % <input type="checkbox"/> Fixed <input checked="" type="checkbox"/> Variable
<b>10. Is this claim based on a lease?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
<b>11. Is this claim subject to a right of setoff?</b>	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

**12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?**

☒ No

☐ Yes. Check all that apply

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)

☐ Up to \$2,775\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☐ Wages, salaries, or commissions (up to \$12,475\*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4)

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.

Amount entitled to priority

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

**Part 3: Sign Below**

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

☐ I am the creditor

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date March 17, 2016

/s/ Nathan F. Smith

Signature

Print the name of the person who is completing and signing this claim:

Name Nathan F Smith  
First name Middle name Last name

Title Attorney for M&T Bayview

Company MALCOLM + CISNEROS, A Law Corporation  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 2112 Business Center Drive

Number Irvine Street California 92612

City State Zip Code

Contact (949) 252-9400 Email nathan@mclaw.org

(12/15)

**If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See separate instructions.**

Part 1: Mortgage and Case Information		Part 2: Total Debt Calculation		Part 3: Arrearage as of Date of the Petition		Part 4: Monthly Mortgage Payment	
Case number:	15-25469-rld13	Principal balance	\$235,109.71	Principal & interest due:		Principal & interest:	\$558.69
Debtor 1:	Dawn Mechele Kennedy	Interest due:	\$296.30	Prepetition fees due:		Monthly escrow:	\$565.98
Debtor 2:		Deferred Amount	\$55,200.00	Escrow deficiency for funds advanced:	\$9,046.73	Private mortgage insurance:	
Last 4 digits to identify	5 7 6 5	Escrow deficiency for funds advanced:	\$9,046.73	Projected escrow shortage:	\$565.98	Total monthly payment	\$1,124.61
Creditor:	Bayview Loan Servicing, LLC	Less total funds on hand:		Less funds on hand:			
Servicer		Total debt:	\$299,652.74	Total prepetition arrearage:	\$9,612.71		

### Part 5 : Loan Payment History from First Date of Default

[illegible]

### PROOF OF SERVICE

I am employed by the law firm of Malcolm & Cisneros in the county of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 2112 Business Center Drive, Second Floor, Irvine, California 92612

On March 17, 2016, I caused to be served the document entitled:

#### PROOF OF CLAIM

on the following interested parties:

<b>Debtor:</b> <b>Dawn Mechele Kennedy</b> <b>3119 Diane Drive</b> <b>Lake Oswego, OR 97035</b>	<b>Debtor's Attorney:</b> <b>Michael D O'Brien</b> <b>12909 SW 68th Parkway, Suite 160</b> <b>Portland, OR 97223</b>
<b>CHAPTER 13 TRUSTEE:</b> <b>Wayne Godare</b> <b>222 SW Columbia St #1700</b> <b>Portland, OR 97201</b>	

☒ (By Mail) I caused each envelope, with postage prepaid, to be placed in the United States Mail at Irvine, California

☐ (By Hand) I caused each envelope to be delivered by hand

☐ (By Overnight Courier) I caused each envelope, with postage prepaid, to be sent by Federal Express/Express Mail.

☐ (By Facsimile Transmission) I caused each document to be sent by automatic facsimile transmission to the following telephone numbers and confirmed by voice communication that the transmission was received:

I declare under penalty of perjury that I am employed in the office of a member of the bar of this Court at whose direction service was made and that the foregoing is true and correct and this declaration was executed on the date indicated below at Irvine, California.

Dated: March 17, 2016

/s/ Erik Groen

Erik Groen

(ii) the Modification Effective Date (as defined in Section 3) has occurred. I further understand and agree that the Lender will not be obligated or bound to make any modification of the Loan Documents if I fail to meet any one of the requirements under this Agreement.

### 3. The Modification.

If my representations and covenants in Section 1 continue to be true in all material respects and all preconditions to the modification set forth in Section 2 have been met, the Loan Documents will automatically become modified on 10/01/2014 (the "Modification Effective Date") and all unpaid late charges that remain unpaid will be waived. I understand that if I have failed to make any payments as a precondition to this modification under a trial period plan, this modification will not take effect. The first modified payment will be due on 10/01/2014.

A. The new Maturity Date will be: 09/01/2054.

B. The modified principal balance of my Note will include all amounts and arrearages that will be past due as of the Modification Effective Date (including unpaid and deferred interest, fees, escrow advances and other costs, but excluding unpaid late charges, collectively, "Unpaid Amounts") less any amounts paid to the Lender but not previously credited to my Loan. The new principal balance of my Note will be \$ 239,671.25 (the "New Principal Balance"). I understand that by agreeing to add the Unpaid Amounts to the outstanding principal balance, the added Unpaid Amounts accrue interest based on the interest rate in effect under this Agreement. I also understand that this means interest will now accrue on the unpaid interest that is added to the outstanding principal balance, which would not happen without this Agreement.

C. \$ 55,200.00 (of the New Principal Balance) shall be deferred (the "Deferred Principal Balance") and I will not pay interest or make monthly payments on this amount. The New Principal Balance less the Deferred Principal Balance shall be referred to as the "Interest Bearing Principal Balance" and this amount is \$ 184,471.25. Interest at the rate of 2.000% will begin to accrue on the Interest Bearing Principal Balance as of 09/01/2014 and the first new monthly payment on the Interest Bearing Principal Balance will be due on 10/01/2014. My payment schedule for the modified Loan is as follows:

Years	Interest Rate	Interest Rate Change Date	Monthly Principal and Interest Payment Amount	Estimated Monthly Escrow Payment Amount*	Total Monthly Payment	Payment Begins On	Number of Monthly Payments

MULTISTATE HOME AFFORDABLE MODIFICATION AGREEMENT - Single Family - Fannie Mae / Freddie Mac UNIFORM INSTRUMENT Form 3157 3/09 (rev. 10/10) V 1.6 Loan No. [REDACTED] (Page 3 of 9 pages)